IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

MFA.No. 112 of 2001()

OPMV.157/1988 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA

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APPELLANT/4TH RESPONDENT:

DIRECTOR OF STATE INSURANCE, STATE INSURANCE DEPARTMENT,TRIVANDRUM.

BY GOVERNMENT PLEADER SHRI BASANT BALAJI

RESPONDENTS/CLAIMANT AND RESPODNENTS 1 TO 3:

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1. SOUMYA (MINOR) REP. BY HER GUARDIAN GANGADARAN NAIR, H.NO.257, NEAR CONGRESS BHAVAN, KALPETTA NORTH.

2. RAJEEVAN, POLICE DRIVER OF KLW I CAR, C/O.DIST.COLLECTOR, WAYANAD, KALPETTA.

3. THE DISTRICT COLLECTOR, WAYANAD, KALPETTA.

4. HOME SECRETARY, SECRETARIAT, TRIVANDRUM.

R1 BY ADV. SRI.THOMAS ANTONY

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR ,J.

M.F.A.No.112 of 2001

Dated, this the 26th day of October, 2007

JUDGMENT

Heard. Admitted. Advocate Shri Thomas Antony takes notice for respondent No.1. Notice to others dispensed with. Appeal itself is heard and disposed of as agreed to by both sides.

2. The Director of State Insurance has filed this appeal challenging an award passed by the Motor Accidents Claims Tribunal, Kalpetta in O.P.(MV) No.157/1988. First respondent filed the Original Petition through her father and next friend claiming compensation. It was alleged that on 19.1.1988 first respondent was hit by a car bearing registration No.KLW 1 driven by the second respondent. The car belonged to the State and was used by the District Collector, Wayanad. Appellant was impleaded as the insurer of the vehicle. Appellant filed a written statement contending that no accident as alleged in the petition took place. Quantum of compensation claimed was disputed. Appellant company did not raise any contention denying the existence of valid policy of insurance. Tribunal found that the first respondent was entitled to get an amount of Rs.17,200/- as compensation and directed the appellant to pay the same. Challenging that award this appeal is filed.

3. The main contention raised by the first respondent is that the vehicle was not covered with a policy of insurance issued by the appellant company.

Vehicle is owned by the Government and being used as official car of the District Collector, Wayanad and was driven by a police driver. Tribunal found that the accident occurred as alleged in the Original Petition and the driver of the car was negligent. It also found that first respondent was entitled to get a compensation of Rs.17,200/-. There is no dispute regarding the quantum of compensation. One and only dispute now raised is that the vehicle was not covered with a valid policy of insurance. No such contention was raised before the Tribunal. No evidence was also adduced. So the appellant cannot be allowed to raise such a contention in this appeal. There is no merit in the appeal. It is only to be dismissed.

In the result, appeal is dismissed.

K. PADMANABHAN NAIR,
JUDGE.

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K.PADMANABHAN NAIR, J.

M.F.A.No.112 of 2001

JUDGMENT

26th October, 2007.